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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,795	02/12/2001	Malcolm F. Ruppert	60,130-1004	6956

26096 7590 10/03/2003

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/781,795

Applicant(s)

RUPPERT ET AL.

Examiner

Frank Vanaman

Art Unit

3618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 41 and 43-46.

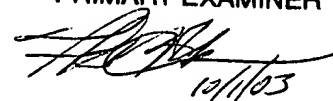
Claim(s) objected to: 29-31, 33-35, 49-55, 57 and 58.

Claim(s) rejected: 23-28, 32, 36-40 and 48.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

FRANK VANAMAN  
PRIMARY EXAMINER

  
12/1/03

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's comments concerning the reference of Van Dest are noted. Applicant has referred to only the title of the reference as evidence of the reference teaching that the drive turret is used to drive a load up a mast. This is confusing in view of Van Dest's lacking of any teaching whatsoever that the drive turret is used in such a way. Applicant may desire to carefully peruse the translation at pages 1-2— specifically the last 5 lines of page 1 and the first 5 lines of page 2. The examiner quotes from the translation: "Thanks to its two wheels, this turret confers excellent stability to the vehicle supported on it" If the vehicle is supported on the turret, it is not clear how this turret is being used to drive a load up a mast as applicant has repeatedly and erroneously alleged. The examiner continues to quote: "Furthermore, thanks to its two motors, which can, of course, be controlled independently, the vehicle can be equipped with simple power steering" If the turret is indeed being used to 'drive a load up a mast' the operation of a power steering system would be entirely inappropriate. Note in addition page 2, lines 27-28. A perusal of page 4 of the translation at lines 1-4 and 5-12 may be helpful as well. If the drive turret is being used to drive a load up a mast, then it is not clear why the reference refers to the turret as being usable for driving the vehicle. The examiner expresses no small surprise that applicant has continued to promote the entirely erroneous interpretation of the reference to Van Dest.

Should applicant continue to persist in this interpretation, applicant is expressly invited to submit evidence that the Van Dest reference teaches such an interpretation. Repeating the title of the reference, which makes no mention of a turret being used to drive a load up a mast is not considered sufficient evidence to support applicant's interpretation, since the title does not actually support this interpretation. Applicant is additionally expressly invited to explain how the passages of the translation cited above by the examiner bear out the notion that the turret drives a load up a mast. Appropriate evidence would be a clear teaching in the reference itself, or perhaps another reference which specifically refers to the Van Dest reference and provides support for the interpretation that applicant continues to promote.

Applicant's submission of documents with the request for reconsideration is noted. The documents have not been cited on a PTO-1449, as would be appropriate for an Information Disclosure Statement, nor have they been filed with the appropriate fees and certification required of an Information disclosure statement submitted at this time. As such, they have been placed in the application file, but have not been considered.

The examiner notes that numerous claims have either (a) been allowed: 41, 43-46, or (b) are objected-to but would be allowable: 29-31, 33-35, 49-55, 57 and 58. The allowable claims were clearly pointed out as such in the office action of August 7, 2002— over one year ago, as were the objected-to claims, with the exception of claims 57 and 58 which were later added, but deemed objected-to but containing allowable material in the office action of February 3, 2003.